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10/574,225	12/13/2006	Hiroyuki Menjo	28888US8PCT	2231
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314			CHO, MUNSOON	
ART UNIT	PAPER NUMBER			
			2617	
NOTIFICATION DATE	DELIVERY MODE			
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/574,225	<b>Applicant(s)</b> MENJO ET AL.
	<b>Examiner</b> MUNSOON CHOO	<b>Art Unit</b> 2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 March 2010.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) 1 and 9 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Objections***

2. **Claim 1 and 9 are** objected to because of the following informalities:

In current case, fig 1: content delivery server 30 is the claimed communication partner equipment, and the cell phone 10 is the claimed portable communication terminal;

- Wherein the portable communication terminal includes ... () and the communication partner equipment stores...;

The newly added limitation above isn't clear. How could the cell phone (portable terminal) include the content delivery server (communication partner equipment)? Please refer to current case, figure 1.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2617

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claim **1 and 6 are** rejected under 35 U.S.C. 103(a) as being unpatentable over Lin (US 2002/0025824) and in view of Orler (US 7,076, 256).

Re claim 1, Lin discloses a system comprising:

Note (not citation): In current application, figure 1: content delivery server 30 and GPS server 40.

Note: Lin, fig 1: position producer (GPS server) and base station (is content delivery server).

Base station stores information (content) in HLR and/or VLR, wherein said information can be delivered to other network devices.

Lin discloses: A communication partner equipment; (**Lin, fig 1: base station**)

Lin discloses: A portable communication terminal communicatively coupled to the communication partner equipment, wherein the portable communication terminal includes, (**Lin, fig 1: mobile station communicatively coupled to base station**)

Lin discloses: data transmitting means for transmitting user data from the portable communication terminal to a communication partner equipment, using a user channel for transmission of user data,

**(P [3]: voice channels for data transmissions between the base station and mobile device.**

**Note: generally, voice channel, user channel and traffic channel are the same)**

Note: Lin, P [32]: location updating procedure is performed through a control channel.

Lin discloses: location requesting means for transmitting request information to request calculation of location information about the portable communication terminal,

**(P [52]: mobile station initiates the location update procedure; fig 1: position producer will then be informed (is requested to calculate/produce position) of said location update procedure from said mobile station)**

Lin discloses: the request information being transmitted from the portable communication terminal to a location information calculating server for calculating the location information (P [52]; fig 1) over a control channel for transmission of control data (See note above, P [32]),

Lin discloses: wherein the communication partner equipment is not part of the location information calculating server, (See note above, fig 1: position producer and base station)

Lin discloses: location acquiring means for acquiring, at the portable communication device,

the location information over the control channel from the location information calculating server, (fig 1: position producer to mobile station)

Lin discloses: the location information having been calculated based on the request information in the location information calculating server,

(fig 1: Position producer calculates position for mobile station, said calculation is invoked from the mobile station's request; P [52])

Note (not citation; for clarifying the claimed limitation below): In current application, fig 1: “GPS server” to “location acquiring part” to “location transmitter” to “content delivery server”

Lin discloses: location transmitting means for transmitting, from the portable communication device over the control channel,

the location information acquired by the location acquiring means from the location information calculating server to the communication partner equipment,

(Lin, fig 1: Position producer (GPS server) to mobile station's receiver (location acquiring part) to mobile station's transmitter (location transmitter) to base station (content delivery server))

Lin discloses: And the communication partner equipment stores the user data together with the location information received from the location transmitting means of the portable communication device,

(fig 1, P [32]: With HLR and VLR, the base station has already stored the user data. The mobile station can transmit its position information (from the position producer) to the base station. Therefore, the base station stores said mobile station's user data (together) and with said mobile station's location information; P [6], extra: HLR can stores user data and current location)

(Therefore, Lin discloses the communication partner equipment stores the user data together with the location information received from the portable communication device)

Lin discloses: and the communication partner equipment transmits the user data together with the location information to a receiver terminal.

(P [6]: cell phone reads its location from the base transceiver station 31)

(P [6]: it does not matter where we are, people can find us)

(P [9]: military officer can track a particular person's position)

(Therefore, Lin discloses the communication partner equipment transmits the location information to a receiver terminal)

Lin discloses: To address: the user data together with the location information;

(When a military officer tracks a particular person's position, the system (has base station involved) could retrieve and display both the particular person's (name) identity (user data) and location. If only the location is displayed without an identity, people may not be able to confirm whether said location is said (target) particular person's location)

**(Therefore, Lin discloses the communication partner equipment transmits the user data together with the location information to a receiver terminal)**

Note (not citation): In current application, fig 1: Examiner notes that there is a specific signal particular goes through the “USER” channel, and there are three specific signals that go through the “CONTROL” channel.

Note: data transmission over the “USER” channel is well known. For the other three signals over the “CONTROL” channel, please refer to the Lin P [32] and location updating procedure.

Lin didn't specifically disclose:

User channel and Control channel are interchangeable, when used to transmit data;

Orler discloses:

User channel and Control channels are interchangeable, when used to transmit data;

**(Orler, Col 5 L44-46: “information can be transferred between the base station and the handset across a control channel and/or a voice channel”)**

It would be obvious to one of ordinary skill in the art to modify Lin, and have using either “user channel” or “control channel” to transmit information as taught by Orler, thereby will have transmitting position data using control channels (Orler, C1 L20-24) as discussed by Orler.

Re claim 6, this method claim corresponds to the apparatus claim 1. Therefore, the analysis of rejections has already been done.

6. Claim 2-5 and 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Lin and Orler, and further in view of Raith (US 6,856,807).

Re claim 2 as modified, Duvall discloses the system according to claim 1, but fails to disclose wherein the location requesting means continues to transmit the request information at predetermined intervals while the data transmitting means transmits the user data. Raith does.

(Raith: abstract, column 1 line 49 to 57. The mobile terminal (includes GPS receiver) updates (involves transmitting the request information) its position)

Motivation to combine may be gleaned from the prior art contemplated. Therefore, one skilled in the art would have found it obvious from the combined teachings of Duvall and Raith as a whole to produce the invention as claimed with a reasonable expectation of having the mobile terminal to update its position periodically.

Re claim 3 as modified, Duvall in combination with Raith disclose the system according to claim 2, wherein the portable communication terminal further comprises movement detecting means for detecting a movement state of the location of the portable communication terminal, based on the location information acquired by the location acquiring means, wherein the location transmitting means transmits the location information in accordance with the detected movement state.

(Raith: figure 2 references 62, 64, 66 and 68. Column 1 line 65 to 67. Update frequency involves transmitting the location information) is made less frequent because it has detected that the mobile terminal is moving slowly or is stationary)

Motivation to combine may be gleaned from the prior art contemplated. Therefore, one skilled in the art would have found it obvious from the combined teachings of Duvall and Raith as a whole to produce the invention as claimed with a reasonable expectation of changing the updating frequency according to the mobile terminal's moving condition, such as fast, slow or stationary.

Re claim 4 as modified, Duvall in combination with Raith disclose the system according to any one of claims 1 to 3, wherein the user data is motion picture data taken as a picture of a subject and the data transmitting means transmits the taken motion picture data in real time.  
(Raith: column 1 line 49 to 51. GPS receiver is disclosed inside of a mobile terminal. Said GPS receiver can receive picture taken from the satellite)

Motivation to combine may be gleaned from the prior art contemplated. Therefore, one skilled in the art would have found it obvious from the combined teachings of Duvall and Raith as a whole to produce the invention as claimed with a reasonable expectation of the mobile terminal receiving pictures from the satellite by using its GPS receiver.

Re claim 5 as modified, Duvall in combination with Raith disclose the system according to any one of claims 1 to 3, wherein the request information contains a GPS signal transmitted

from a GPS satellite.

**(Raith: column 1 line 49 to 51. GPS receiver is disclosed inside of a mobile terminal.)**

Motivation to combine may be gleaned from the prior art contemplated. Therefore, one skilled in the art would have found it obvious from the combined teachings of Duvall and Raith as a whole to produce the invention as claimed with a reasonable expectation of having a GPS receiver included inside of the mobile terminal disclosed in Duvall.

Re claim 7 as modified, Duvall in combination with Raith as a whole disclose the system according to claim 4, wherein the request information contains a GPS signal transmitted from a GPS satellite.

**(Raith: column 1 line 49 to 51. GPS receiver is disclosed inside of a mobile terminal.)**

Motivation to combine may be gleaned from the prior art contemplated. Therefore, one skilled in the art would have found it obvious from the combined teachings of Duvall and Raith as a whole to produce the invention as claimed with a reasonable expectation of having a GPS receiver included inside of the mobile terminal disclosed in Duvall.

7. Claim 8-10 rejected under 35 U.S.C. 103(a) as being unpatentable over Lin and Orler, and further in view of Duvall (US 6,876,858).

Re claim 8 as modified, Duvall discloses the system of claim 1,

wherein the locating acquiring means acquires the location information from the location information calculating server over the control channel in parallel with the data transmitting means transmitting the user data to the communication partner over the user channel, and

(Duvall, figure 2: Note that cell phone P1 is equipped with GPS/T, thereby provides a rational for combination. Then, the user in the car, can be calling the Call Center “C”, while the GPS/GPS-T inside the cell phone receives signal (information) from the satellite over the control channel)

The locating transmitting means transmits the location information to the communication partner equipment over the control channel in parallel with the data transmitting means transmitting the user data to the communication partner over the user channel.

(Duvall, figure 2: With P1 is equipped with GPS/T, then the user in the car, can be calling the Call Center “C”, while the GPS/GPS-T inside the cell phone transmits location information to the Call Center via control channel)

Re claim 9-10, these apparatus claims correspond to the apparatus claims 1 and 8. Therefore, the analysis of rejections has already been done.

8. Claim 11-12 and 15-16 rejected under 35 U.S.C. 103(a) as being unpatentable over Lin and Orler, and further in view of Reed (US 2005/0113113)

**Re claim 11**, Lin and Orler as a whole disclose the system of claim 1, but didn't specifically disclose: wherein the user data is picture data.

Reed discloses:

wherein the user data is picture data.

**(Reed, P [11]: a user transmits (user data) video images)**

It would be obvious to one of ordinary skill in the art to modify Lin, and have user transmitting his/her data as taught by Reed, thereby will have a multi-function wireless communication device (P [2]) as discussed by Reed.

**Re claim 12**, Lin, Orler and Reed as a whole disclose the system of claim 11,

Reed discloses:

wherein the picture data is motion picture data.

**(Reed, P [11]: video images are motion picture data)**

It would be obvious to one of ordinary skill in the art to modify Lin, and have video images as taught by Reed, thereby will have a multi-function wireless communication device (P [2]) as discussed by Reed.

Re claim 15-16, these claims correspond to claim 11-12 respectively.

9.     Claim 13-14 rejected under 35 U.S.C. 103(a) as being unpatentable over Lin, Orler and Duvall, and further in view of Reed.

Re claim 13-14, these claims correspond to claim 11-12 respectively.

***Conclusion***

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MUNSOON CHOO whose telephone number is (571)270-7140. The examiner can normally be reached on Monday through Friday 7:30am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Corsaro can be reached on (571)272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Munsoon Choo/

Examiner, Art Unit 2617

/NICK CORSARO/

Supervisory Patent Examiner, Art Unit 2617